

YOUTH TOBACCO ACT

Act 31 of 1915

An act to prohibit the selling, giving, or furnishing of tobacco products to minors; to prohibit the use of tobacco products by minors; to prohibit the harboring of minors for the purpose of indulging in the use of tobacco products; to regulate the retail sale of tobacco products; to prescribe penalties; and to prescribe the powers and duties of certain state agencies and departments.

History: 1915, Act 31, Eff. Aug. 24, 1915;—Am. 1988, Act 314, Eff. Mar. 30, 1989;—Am. 1992, Act 272, Imd. Eff. Dec. 16, 1992.

The People of the State of Michigan enact:

722.641 Selling, giving, or furnishing tobacco products to person under 18 prohibited; misdemeanor; penalty; sign required; copies of sign; affirmative defense; notice; rebuttal testimony; notice of rebuttal.

Sec. 1. (1) A person shall not sell, give, or furnish any cigarette, cigar, chewing tobacco, tobacco snuff, or tobacco in any other form to a person under 18 years of age. A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense.

(2) Beginning 90 days after the effective date of this subsection, a person who sells tobacco products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of public health that includes the following statement:

“The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties.”

(3) If the sign required under subsection (2) is more than 6 feet from the point of sale, it shall be 5-1/2 inches by 8-1/2 inches, and the statement required under subsection (2) shall be printed in 36-point boldface type. If the sign required under subsection (2) is 6 feet or less from the point of sale, it shall be 2 inches by 4 inches, and the statement required under subsection (2) shall be printed in 20-point boldface type.

(4) The department of public health shall produce the sign required under subsection (2) and have adequate copies of the sign ready for distribution to licensed wholesalers, secondary wholesalers, and unclassified acquirers of cigarettes and other tobacco products described in subsection (1) free of charge within 60 days after the effective date of this subsection. Licensed wholesalers, secondary wholesalers, and unclassified acquirers of cigarettes and other tobacco products described in subsection (1) shall obtain copies of the sign from the department of public health and distribute them free of charge, upon request, to persons who are subject to subsection (2). The department of public health shall provide copies of the sign free of charge, upon request, to persons subject to subsection (2) who do not purchase their supply of cigarettes or other tobacco products described in subsection (1) from licensed wholesalers, secondary wholesalers, and unclassified acquirers of cigarettes and other tobacco products described in subsection (1).

(5) It is an affirmative defense to a charge pursuant to subsection (1) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of cigarettes, cigars, chewing tobacco, tobacco snuff, and other tobacco products to persons under 18 years of age, and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the date set for trial.

(6) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (5) shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than 7 days before the date set for trial, and shall contain the name and address of each rebuttal witness.

History: 1915, Act 31, Eff. Aug. 24, 1915;—CL 1915, 5185;—CL 1929, 12826;—CL 1948, 722.641;—Am. 1972, Act 29, Imd. Eff. Feb. 19, 1972;—Am. 1988, Act 314, Eff. Mar. 30, 1989.

722.642 Possessing or using tobacco products in public by person under 18; violation as misdemeanor; penalty; participation in health promotion and risk reduction assessment program; costs; community service.

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Sec. 2. A person under 18 years of age shall not possess or smoke cigarettes or cigars; or possess or chew, suck, or inhale chewing tobacco or tobacco snuff; or possess or use tobacco in any other form, on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement. A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense. Pursuant to a probation order, the court may require a person who violates this section to participate in a health promotion and risk reduction assessment program, if available. A probationer who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the costs of participating in the program. In addition, a person who violates this section is subject to the following:

- (a) For the first violation, the court may order the person to do 1 of the following:
 - (i) Perform not more than 16 hours of community service in a hospice, nursing home, or long-term care facility.
 - (ii) Participate in a health promotion and risk reduction program, as described in this subsection.
- (b) For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 32 hours of community service in a hospice, nursing home, or long-term care facility.
- (c) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 48 hours of community service in a hospice, nursing home, or long-term care facility.

History: 1915, Act 31, Eff. Aug. 24, 1915;—CL 1915, 5186;—CL 1929, 12827;—CL 1948, 722.642;—Am. 1972, Act 29, Imd. Eff. Feb. 19, 1972;—Am. 1988, Act 314, Eff. Mar. 30, 1989.

722.642a Selling cigarette separately prohibited; exception; violation as misdemeanor; penalty.

Sec. 2a. (1) Except as otherwise provided in subsection (2), a person who sells tobacco products at retail shall not sell a cigarette separately from its package.

(2) Subsection (1) does not apply to a person who sells tobacco products at retail in a tobacco specialty retail store or other retail store that deals exclusively in the sale of tobacco products and smoking paraphernalia.

(3) A person who violates subsection (1) is guilty of a misdemeanor, punishable by a fine of not more than \$500.00 for each offense.

History: Add. 1992, Act 272, Imd. Eff. Dec. 16, 1992.

722.643 Noninterference with right of parent or guardian.

Sec. 3. This act does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children or wards within the bounds of his or her own private premises.

History: 1915, Act 31, Eff. Aug. 24, 1915;—CL 1915, 5187;—CL 1929, 12828;—CL 1948, 722.643;—Am. 1972, Act 29, Imd. Eff. Feb. 19, 1972;—Am. 1988, Act 314, Eff. Mar. 30, 1989.

722.644 Definitions.

Sec. 4. As used in this act:

(a) “Chewing tobacco” means loose tobacco or a flat, compressed cake of tobacco that is inserted into the mouth to be chewed or sucked.

(b) “Person who sells tobacco products at retail” means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

(c) “Tobacco snuff” means shredded, powdered, or pulverized tobacco that may be inhaled through the nostrils, chewed, or placed against the gums.

History: Add. 1988, Act 314, Eff. Mar. 30, 1989;—Am. 1992, Act 272, Imd. Eff. Dec. 16, 1992.

Compiler's note: Previous section 4 of this act was not compiled.

722.645 Short title.

Sec. 5. This act shall be known and may be cited as the “youth tobacco act”.

History: Add. 1988, Act 314, Eff. Mar. 30, 1989.

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